



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,883	07/03/2003	Thomas Dollmann	089443-000000US	7004

20350 7590 04/06/2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

ELLIS, SUEZU Y

ART UNIT	PAPER NUMBER
----------	--------------

2878

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,883

Applicant(s)

DOLLMANN ET AL.

Examiner

Suezu Ellis

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☒ Claim(s) 1-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on July 2, 2004 and September 17 are in compliance with the provisions of 37 CFR 1.97.

Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the diffractive optical element (in claim 5), the optical grid (in claim 6), operative switching arrangement (in claims 28-33) the fixed diaphragm and/or shutter arrangement (in claims 32-33), and the shutter arrangement, polarization filters and grid/diaphragm structures (claim 34) must be shown or the features canceled from the claims. Further the drawings fail to clearly illustrate front screen separating the transmission unit, reception unit and deflection unit from the surroundings of the laser scanning apparatus (claim 1). Where are the surroundings? There is no clear boundaries illustrated to differentiate the device from the surroundings. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures

Art Unit: 2878

appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 36-39 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only or cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits. Further, in claim 36, line 1, the preamble ("a method for monitoring...") must be consistent with the claims from which they depend upon.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2878

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, nowhere in the claim does the applicant discuss the means for scanning. How does the laser perform the scanning? Does the deflection create the scanning?

Claim 1 recites a front screen that transmits the light beam and separates the transmission unit, the reception unit and the light deflection unit from the surroundings of the laser scanning apparatus. Does the applicant mean the front screen physically separates these units? Or does the applicant mean that the front screen separates light from these units? This section is unclear. Please reword.

Claim 1, recites the limitation "the laser scanning apparatus" in line 12. There is insufficient antecedent basis for this limitation in the claim. Is the laser scanning apparatus the same as the laser scanning device mentioned in the preamble?

Claims 2-35, recite the limitation "a laser scanning apparatus" in line 1. There is insufficient antecedent basis for this limitation in the claim since the claims they depend upon recite a laser scanning device.

Regarding claims 1, 3, 26, 27, 32, 33 and 36, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following

Art Unit: 2878

the phrase are part of the claimed invention. See MPEP § 2173.05(d). With respect to claim 1, if this is corrected, how will distance determination be performed?

Claims not specifically mentioned are indefinite due to their dependency. Appropriate correction is required.

Allowable Subject Matter

Claims 1-35 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Regarding claim 1, prior art fails to disclose at least one optical element being provided which splits off a part beam from the transmitted beam and deflects the part beam to a photodetector for a measurement of the transmission of the front screen, in addition to the other features of the claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jakob et al. (US 6,153,878) discloses in Fig. 1, a device to locate objects into a region to be monitored comprising a transmitter (3) that emits pulsed radiation, a light deflection unit (7), a reception unit (4) and a front screen (equivalent to a window - 2).


Art Unit: 2878

Telephone/Fax Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suez Ellis whose telephone number is 571-272-2868. The examiner can normally be reached on 8:30am-5pm (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800